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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION  
13

14 **NICOLAS C. SMITH-WASHINGTON**,  
individually and on behalf of all other similar  
15 situated individuals,

16 Plaintiff,

17 vs.

18 **TAXACT, INC.**, an Iowa Corporation,

19 Defendant.

Case No. 3:23-cv-830-VC

**REVISED JOINT STIPULATION TO  
CONTINUE HEARING DATES ON  
DEFENDANT'S MOTION TO STAY AND  
BRIEFING DEADLINES; PROPOSED  
ORDER**

**[LOCAL RULE 6-2]**

1 WHEREAS, on March 2, 2023, Defendant TaxAct, Inc. filed its Motion to Stay pursuant to  
2 Section 3 of the Federal Arbitration Act (“FAA”), 9 U.S.C. § 3 *et seq.* (the “Motion to Stay”), on the  
3 ground that Plaintiff agreed to arbitrate all disputes with TaxAct on an individual basis. Dkt. 12.

4 WHEREAS, the Motion to Stay is currently set for hearing on April 6, 2023 at 10:00 a.m.

5 WHEREAS, pursuant to Civil L.R. 7-3, Plaintiff’s opposition is due on March 16, 2023; and  
6 Defendant’s reply is due on March 23, 2023.

7 WHEREAS, on March 10, 2023, the parties filed a Joint Stipulation to Modify the hearing date  
8 for Defendant’s Motion to Stay until June 1, 2023, and to extend the deadline for Plaintiff to file his  
9 response until May 4, 2023 and for Defendant to file its reply until May 18, 2023. Dkt. 18.

10 WHEREAS, on March 13, 2023, the Court denied the Stipulation, and stated that it would  
11 consider a new stipulation with more information, a shorter extension, or both. Dkt. 19.

12 WHEREAS, in light of the Court’s order, Plaintiff’s counsel and counsel for Defendant submit  
13 this revised stipulation seeking a shorter extension on the briefing schedule and on the Motion hearing  
14 date, and providing additional information in support of the request, as follows:

15 WHEREAS, to comprehensively address all of the arguments raised in Defendant’s Motion, and  
16 to obtain information to support Plaintiff’s contentions, Plaintiff requests more than the 14 days allowed  
17 under Local Rule 7-3.

18 WHEREAS, Plaintiff and Defendant are meeting and conferring regarding records concerning  
19 the alleged agreement to arbitrate, its validity, and its enforceability.

20 WHEREAS, in addition, Plaintiff is seeking to obtain an affidavit from the Internet Archive’s  
21 Wayback Machine attaching authenticated archived copies of TaxAct’s website and Terms of Service  
22 as they appeared throughout the relevant time period. Plaintiff’s Counsel understands that it takes at  
23 least 15 business days to obtain an affidavit from the Wayback Machine.

24 WHEREAS, in order to comprehensively address all of the arguments raised in Plaintiff’s  
25 anticipated response to the Motion to Stay, Defendant requires more than the 7 days allowed under  
26 Local Rule 7-3.

27 WHEREAS, counsel for both parties will be observing a religious holiday during the first two  
28 weeks of April.

1 WHEREAS, on March 3, 2023, the parties stipulated to an extension of time for Defendant to  
2 respond to Plaintiff's Complaint.

3 WHEREAS, there have been no other time modifications in this case.

4 WHEREAS, the parties' request for a change in the hearing date on the Motion to Stay, and  
5 enlargement of time on the briefing schedule, does not require changes to other deadlines in this case.

6 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the parties that:

7 1. The Motion to Stay Hearing will be re-set for May 18, 2023 at 10 a.m.

8 2. Plaintiff's response to the Motion to Stay will be due by April 20, 2023.

9 3. TaxAct, Inc.'s reply to Plaintiff's response to the Motion to Stay will be due by May 4, 2023.

10 4. No other dates or deadlines shall be altered by this stipulation.

11 **IT IS SO STIPULATED.**

12 Dated: March 13, 2023

Respectfully submitted,

14 /s/ Sheila Armbrust

15 Sheila A.G. Armbrust (SBN 265998)  
SIDLEY AUSTIN LLP

16 *Attorney for Defendant*  
17 *TaxAct, Inc.*

Dated: March 13, 2023

18 /s/ Julian Hammond

19 Julian Hammond (SBN 268489)  
20 HAMMONDLAW, P.C.

*Attorney for Plaintiff Nicolas C. Smith-Washington*

21  
22 **FILER'S ATTESTATION**

23 Pursuant to Civil L.R. 5-1(i)(3), regarding signatures, I, Ari Cherniak, attest that concurrence in  
24 the filing of this document has been obtained.

25 Dated: March 13, 2023

/s/ Ari Cherniak

26 Ari Cherniak

**[PROPOSED] ORDER**

Pursuant to the stipulation of the parties and and good cause being shown, IT IS ORDERED that: (1) the hearing on Defendant's Motion to to Stay, currently scheduled for April 6, 2023, is continued until May 18, 2023 at 10:00 a.m.; (2) the deadline for Plaintiff's opposition to the Motion to Stay, currently scheduled for March 16, 2023, is continued until April 20, 2023; and (3) the deadline for Defendant's reply on the Motion to Stay, currently scheduled for March 23, 2023, is continued until May 4, 2023.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
HON. VINCE CHHABRIA  
United States District Court Judge